

(2) a precipitous decline in the financial resources of the local educational agency.

(Pub. L. 89-10, title IX, §9521, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980.)

#### PRIOR PROVISIONS

A prior section 7901, Pub. L. 89-10, title IX, §9201, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3794, set forth short title of the Native Hawaiian Education Act, prior to the general amendment of this subchapter by Pub. L. 107-110. See section 7511 of this title.

### § 7902. Prohibition regarding State aid

A State shall not take into consideration payments under this chapter (other than under subchapter VIII) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89-10, title IX, §9522, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980.)

#### PRIOR PROVISIONS

A prior section 7902, Pub. L. 89-10, title IX, §9202, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3794, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107-110. See section 7512 of this title.

### § 7903. Privacy of assessment results

Any results from an individual assessment referred to in this chapter of a student that become part of the education records of the student shall have the protections provided in section 1232g of this title.

(Pub. L. 89-10, title IX, §9523, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980.)

#### PRIOR PROVISIONS

A prior section 7903, Pub. L. 89-10, title IX, §9203, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3798, set forth purpose of provisions relating to Native Hawaiian educational programs. See section 7513 of this title.

### § 7904. School prayer

#### (a) Guidance

The Secretary shall provide and revise guidance, not later than September 1, 2002, and of every second year thereafter, to State educational agencies, local educational agencies, and the public on constitutionally protected prayer in public elementary schools and secondary schools, including making the guidance available on the Internet. The guidance shall be reviewed, prior to distribution, by the Office of Legal Counsel of the Department of Justice for verification that the guidance represents the current state of the law concerning constitutionally protected prayer in public elementary schools and secondary schools.

#### (b) Certification

As a condition of receiving funds under this chapter, a local educational agency shall certify in writing to the State educational agency involved that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary

schools, as detailed in the guidance required under subsection (a) of this section. The certification shall be provided by October 1 of each year. The State educational agency shall report to the Secretary by November 1 of each year a list of those local educational agencies that have not filed the certification or against which complaints have been made to the State educational agency that the local educational agencies are not in compliance with this section.

#### (c) Enforcement

The Secretary is authorized and directed to effectuate subsection (b) of this section by issuing, and securing compliance with, rules or orders with respect to a local educational agency that fails to certify, or is found to have certified in bad faith, that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools.

(Pub. L. 89-10, title IX, §9524, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1980.)

#### PRIOR PROVISIONS

A prior section 7904, Pub. L. 89-10, title IX, §9204, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3798, established the Native Hawaiian Education Council and island councils, prior to the general amendment of this subchapter by Pub. L. 107-110. See section 7514 of this title.

### § 7905. Equal access to public school facilities

#### (a) Short title

This section may be cited as the “Boy Scouts of America Equal Access Act”.

#### (b) In general

##### (1) Equal access

Notwithstanding any other provision of law, no public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or a limited public forum and that receives funds made available through the Department shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 (as a patriotic society).

##### (2) Voluntary sponsorship

Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society).

#### (c) Termination of assistance and other action

##### (1) Departmental action

The Secretary is authorized and directed to effectuate subsection (b) of this section by is-

suings and securing compliance with rules or orders with respect to a public elementary school, public secondary school, local educational agency, or State educational agency that receives funds made available through the Department and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (b) of this section.

**(2) Procedure**

The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), through the Office for Civil Rights and in a manner consistent with the procedure used by a Federal department or agency under section 2000d-1 of title 42. If the public school or agency does not comply with the rules or orders, then notwithstanding any other provision of law, no funds made available through the Department shall be provided to a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders.

**(3) Judicial review**

Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 2000d-2 of title 42. Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 2000d-2 of title 42.

**(d) Definition and rule**

**(1) Definition**

In this section, the term “youth group” means any group or organization intended to serve young people under the age of 21.

**(2) Rule**

For the purpose of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

(Pub. L. 89-10, title IX, §9525, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1981.)

**PRIOR PROVISIONS**

A prior section 7905, Pub. L. 89-10, title IX, §9205, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3800, related to Native Hawaiian Family-Based Education Centers, prior to the general amendment of this subchapter by Pub. L. 107-110.

**§ 7906. General prohibitions**

**(a) Prohibition**

None of the funds authorized under this chapter shall be used—

(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

(3) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

(4) to operate a program of contraceptive distribution in schools.

**(b) Local control**

Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or school’s instructional content, curriculum, and related activities;

(2) limit the application of the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

(4) create any legally enforceable right.

(Pub. L. 89-10, title IX, §9526, as added Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1982.)

**REFERENCES IN TEXT**

The General Education Provisions Act, referred to in subsec. (b)(2), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

**PRIOR PROVISIONS**

A prior section 7906, Pub. L. 89-10, title IX, §9206, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3800, authorized grants for a Native Hawaiian higher education program, prior to the general amendment of this subchapter by Pub. L. 107-110.

**§ 7907. Prohibitions on Federal Government and use of Federal funds**

**(a) General prohibition**

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

**(b) Prohibition on endorsement of curriculum**

Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this chapter may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

**(c) Prohibition on requiring Federal approval or certification of standards**

**(1) In general**

Notwithstanding any other provision of Federal law, no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

**(2) Rule of construction**

Nothing in this subsection shall be construed to affect requirements under sub-